



Mike Mullins
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Public Affairs

February 21, 2003

Mr. A.J. Yates
Administrator
Agricultural Marketing Service
United States Department of Agriculture
Mail Stop 0249
1400 Independence Avenue SW
Washington, D.C. 20250-0249

Dear Mr. Yates:

These comments are submitted in response to the USDA Agricultural Marketing Service's (AMS) November 21, 2002 *Federal Register* notice relating to costs associated with record keeping requirements of the new Country of Origin Labeling (COOL) law.

Cargill, Incorporated and its meat processing subsidiary Excel appreciates USDA's effort to quantify the costs so that all stakeholders in the livestock and meat complex can better understand the true implications of this far-reaching law. Our firm is a large stakeholder in the livestock and meat sector. We provide farmers and ranchers with risk management and animal nutrition services. We operate cattle feedlots, buying thousands of animals from producers each year. We operate hog production operations from which we supply independent family farmers with their feeder pigs. And we operate packing operations under the Excel and Taylor-Peck names.

The primary aim of our comments is to broaden the discussion of the costs associated with the COOL law. AMS has estimated costs to be in the range of about \$2 billion for record keeping and labeling. While the overall costs of record keeping can be difficult to project, we believe they are probably a bit low, especially looking more broadly. We point to a report issued February 13 by the National Pork Producers Council showing the costs at roughly \$1.02 billion for the pork industry alone.

AMS' study only includes paperwork and tracing. It does not include the infrastructure requirements that must be instituted in order to ensure compliance with the new federal

law. We would encourage AMS to undertake a comprehensive study working with the industry to fully assess the costs we have highlighted below.

1. Livestock segregation – The law and regulation for the voluntary COOL program essentially establishes several classes of livestock, including those born, raised and slaughtered in the U.S. versus those born and raised outside the U.S. or those born outside the U.S. but raised in the U.S. Maintaining identity of these classes of livestock will be a considerable challenge, requiring substantial new investment in pen space for packing plants if a plant is to maintain its current level of access to livestock producers.
2. Carcass segregation – Similar to the point outlined above, slaughter lines will have to be reconfigured to maintain segregation of the different classes of animals. Additionally coolers will have to be reconfigured. Further, fabrication floors will face similar hurdles.
3. Efficiency Reduction – Serious efficiencies will be lost in maintaining segregation between animal classes. Options that processors will face in trying to ensure compliance will likely cause disruption in the orderly marketing of livestock creating situations where plants may not be able to take delivery of certain classes of livestock on certain days. For instance, days may have to be set aside for “U.S. Only” or “Canada-born, U.S. Raised and Slaughtered Only.” Nowhere will the efficiency loss be more severe than on the fabrication floor, which is the most likely place where products from different livestock and meat classes are most at risk for becoming intermingled. AMS should conduct a very detailed study of the economics of this requirement. Our meat processing subsidiary Excel Corporation would happily share with you our data associated with these efficiency losses.
4. Marketing Costs – One of the most difficult operations of a plant to manage is its boxed beef or pork inventory. The new law has the effect of tripling our code numbers because it injects the new variable of the COOL classification. Some of our plant boxed meat operations are run through the use of robotics. We would invite AMS to visit our Dodge City, KS plant to learn more about the cost of retooling a program as large as ours. The boxed beef operation is roughly the size of a football field – and changes would include not only software but also the actual robotics that retrieve boxed beef supplies.

Cargill very much appreciated AMS' participation at the recent National Cattlemen's Beef Association convention in Nashville. Representatives of our company had the opportunity to hear just how serious a challenge AMS sees in the implementation of the law and regulations.

Aside from AMS, we see two of its sister agencies with just as much influence over the new law. These are the Food Safety Inspection Service and the Grain Inspection Packers and Stockyards Administration.

FSIS oversees all labeling requirements under the jurisdiction of USDA. We assume that FSIS will be the on-site agency charged with enforcing the new law. Based on our experience, enforcement of new laws present new challenges for both the industry and the agency. We would encourage AMS to partner with FSIS to better understand potential costs associated with labeling enforcement and what requirements that agency will want in place to ensure compliance.

It is our view and the view of industry attorneys that mislabeling products is viewed under the statute as equal to misbranding or marketing adulterated products. This activity carries not only the civil penalties described in the new COOL law, but also the criminal statutes included in the purview of meat inspection. This factor is among the many reasons packers will be going to extraordinary lengths to protect themselves and their businesses from enforcement activities. This brings in the third USDA agency we are concerned about.

GIPSA oversees fair trade practices. We believe this new law will force packers to take extra care to ensure they are not misbranding products or certifying anything to their retail customers they do not know to be true. It is our belief that many producers will be unhappy with new requirements from packers and they will file complaints with GIPSA. We encourage AMS to partner with GIPSA to better understand the costs associated with that agency's requirement to investigate complaints and to estimate the industry's costs associated with defending itself from such complaints.

There are serious trade ramifications of this new law that must be considered in

We believe this new law undermines the cost competitiveness of the U.S. pork industry. It very may well result in our international competitors winning export markets the U.S. currently served.

The new law will also cause some unnatural trade flows as products that may ordinarily go to retail shift to food service use. We believe it important that AMS interview industry participants to learn the costs associated with trade flow changes.

Cargill believes AMS and GIPSA should investigate whether the cost of compliance with this new law may cause some processors to leave the industry, another important issue on the minds of producers.

We believe there will undoubtedly unfair trade practice challenges to this new law and would encourage AMS to also consider the cost to the U.S. government in defending such cases.

Cargill appreciates the opportunity to offer these comments, and we are available to visit in greater depth with AMS at any point.

Sincerely yours,

Mike Mullins
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